

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

NATHAN SAUNDERS,

Petitioner,

-against-

9:03-CV-0660  
(LEK/VEB)

DANIEL SENKOWSKI,

Respondent.

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**DECISION AND ORDER**

This matter comes before the Court following a Report and Recommendation filed on March 8, 2007 by the Honorable Victor E. Bianchini,<sup>1</sup> United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.4 of the Northern District of New York. Report-Rec. (Dkt. No. 15). After ten days from the service thereof, the Clerk has sent the entire file to the undersigned, including the objections by Petitioner Nathan Saunders, which were filed on March 22, 2007. Objections (Dkt. No. 16).

It is the duty of this Court to “make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b). “A [district] judge... may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.* This Court has considered the objections and has undertaken a de novo review of the record and has determined that the Report and

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<sup>1</sup> Judge Bianchini is a retired and Recalled United States Magistrate Judge for the Western District of New York, sitting by designation pursuant to 28 U.S.C. § 636(h) and the Order of Northern District Chief Judge Norman A. Mordue (see Order of Reassignment (Dkt. No. 13)).

Recommendation should be approved for the reasons stated therein.

Accordingly, it is hereby

**ORDERED**, that the Report and Recommendation (Dkt. No. 15) is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

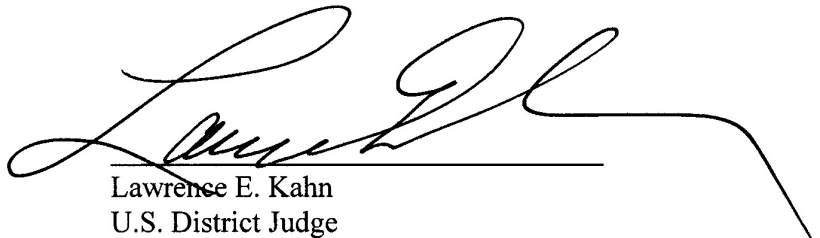
**ORDERED**, that Petitioner's Petition for a writ of habeas corpus (Dkt. No. 1) is **DENIED**; and it is further

**ORDERED**, that upon the Recommendation of Judge Bianchini, and pursuant to the relevant law, a Certificate of Appealability is hereby **GRANTED** *sua sponte* for the limited purpose of determining whether equitable tolling is appropriate under the facts presented in the case at bar - since the Report and Recommendation did not reach or consider the merits of this case; and it is further

**ORDERED**, that the Clerk serve a copy of this Order on all parties.

**IT IS SO ORDERED.**

DATED: March 30, 2007  
Albany, New York



Lawrence E. Kahn  
U.S. District Judge